



**US Army Corps  
of Engineers**  
Louisville District ®

# Joint Public Notice

Public Notice No.  
LRL-2016-516-kjs

Open Date:  
29 Dec 2016

Close Date:  
30 Jan 2017

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Louisville District  
ATTN: Ms. Kimberly Simpson, CELRL-RDN, Rm  
752 P.O. Box 59  
Louisville, Kentucky 40201-0059

Phone: 502-315-6691

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA) and for State Water Quality Certification pursuant to Section 401 of the CWA from the Indiana Department of Environmental Management, Office of Water Quality.

APPLICANT: Clarion Partners  
1717 McKinney Avenue, Suite 1900  
Dallas, Texas 75202

AGENT: Redwing Ecological Services, Inc.  
1139 South Fourth Street  
Louisville, Kentucky 40203

LOCATION: Streams and wetlands within a 78-acre parcel  
located at 7615 Highway 31 East, in Sellersburg,  
Clark County, Indiana.

Latitude: 38°-22'-33" (N)  
Longitude: 85°-44'-59" (W)  
7.5 Minute Quad: CHARLESTOWN, INDIANA

PURPOSE: Commercial development.

DESCRIPTION OF WORK: The applicant proposes to construct a commercial development consisting of two large distribution buildings with a minimum of 1,000,000 square feet of warehouse space. Further, the development would include associated access roads, utilities, parking facilities and stormwater detention (see attached *Figures 1 & 2*).

To facilitate this new development, the applicant proposes to impact approximately 1,820 linear feet of four (4) ephemeral stream channels and 2.98 acres of ten (10) wetlands (see *Tables 1 and 2* on Page 2 of this notice for itemized proposed impacts to "waters of the U.S.") Under the proposal, these waters would be filled with 5,000 cubic yards of clean earthen fill material excavated on-site. The applicant requests a 5-year timeframe for completion of construction.

**Table 1: Proposed Wetland Impacts**

Water ID	Type	Impact/Activity	Impacts	
			Length (ft)	Area (ac)
Wetland 1	Emergent, Scrub-Shrub & Forested	Fill/Structure	N/A	0.658
Wetland 2	Emergent & Scrub-Shrub	Fill/Structure	N/A	0.06
Wetland 3	Scrub-Shrub	Fill/Structure	N/A	0.17
Wetland 4	Emergent	Fill/Structure	N/A	0.26
Wetland 5	Emergent & Scrub-Shrub	Fill/Structure	N/A	0.26
Wetland 6	Emergent & Scrub-Shrub	Fill/Structure	N/A	0.19
Wetland 7	Scrub-Shrub	Fill/Structure	N/A	0.03
Wetland 8	Emergent & Scrub-Shrub	Fill/Structure	N/A	0.24
Wetland 9	Emergent & Scrub-Shrub	Fill/Structure	N/A	0.98
Wetland 10	Emergent & Scrub-Shrub	Fill/Structure	N/A	0.13
<b>Total Proposed Wetland Impacts:</b>				<b>2.98</b>

**Table 2: Proposed Stream Impacts**

Water ID	RBP Score/Quality	Impact/Activity	Impacts	
			Length (lf)	Area (ac)
Ephemeral 1	Poor	Fill/Structure	135	0.0005
Ephemeral 3	Poor	Fill/Structure	570	0.039
Ephemeral 4	Poor	Fill/Structure	170	0.019
Ephemeral 5	Poor	Fill/Structure	945	0.043
<b>Total Proposed Stream Impacts:</b>			<b>1,820</b>	<b>0.102</b>

**AVOIDANCE & MINIMIZATION MEASURES:** The applicant did consider design alternatives within the 78-acre parcel to reduce impacts. Specifically, by adjusting the original design layout, the applicant was able to avoid 1.91 acres of wetlands (including higher quality forested and scrub-shrub wetlands) and 700 linear feet of ephemeral stream channel.

**MITIGATION MEASURES:** The applicant proposes to provide compensation for the unavoidable wetland impacts associated with this project through the development of an off-site permittee responsible mitigation plan consisting of the re-establishment of 8 acres of flatwoods wetlands and the preservation of 3.90 acres of flatwoods wetlands and 1.43 acres of emergent wetlands. With regard to unavoidable stream impacts, the applicant proposes the development of an off-site permittee responsible mitigation plan consisting of the re-establishment of 1 acre of flatwoods wetlands and the preservation of 925 linear feet of intermittent stream channel and 2,010 feet of ephemeral stream channel (see mitigation summary in *Table 3*) (also see attached *Figures 3-7*).

**Table 3: Summary of Proposed Off-Site Permittee Responsible Mitigation Actions**

Water	Action	Impacts	
		Length (lf)	Area (ac)
Flatwoods Wetlands	Re-Establishment	--	9.00
Flatwoods Wetlands	Preservation	--	3.90
Emergent Wetlands	Preservation	--	1.43
Intermittent Stream	Preservation	925	--
Ephemeral Stream	Preservation	2,010	--
<b>Total Proposed Mitigation:</b>		<b>2,935</b>	<b>14.33</b>

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In addition, the applicant proposes a monitoring plan with performance standards, a maintenance plan, a long term management plan, an adaptive management plan, a site protection instrument and financial assurances. Additional information on the details of the mitigation plan, or the proposal in general, may be obtained by request from this office.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied.

A DA Permit, if otherwise warranted, will not be issued on this project until a State of Indiana Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice may constitute the application for the 401 certification. IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Quality, Section 401 WQC Program, 100 N. Senate Avenue Room N1255, Indianapolis, Indiana 46204. The applicant is responsible for obtaining the certification from IDEM.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

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The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.asp>. All comments regarding this proposal should be addressed to Ms. Kimberly Simpson, CELRL-RDN at the address noted above and should refer to the Public Notice Number LRL-2016-516-kjs.

If you desire to submit your comments by email, you must comply with the following:

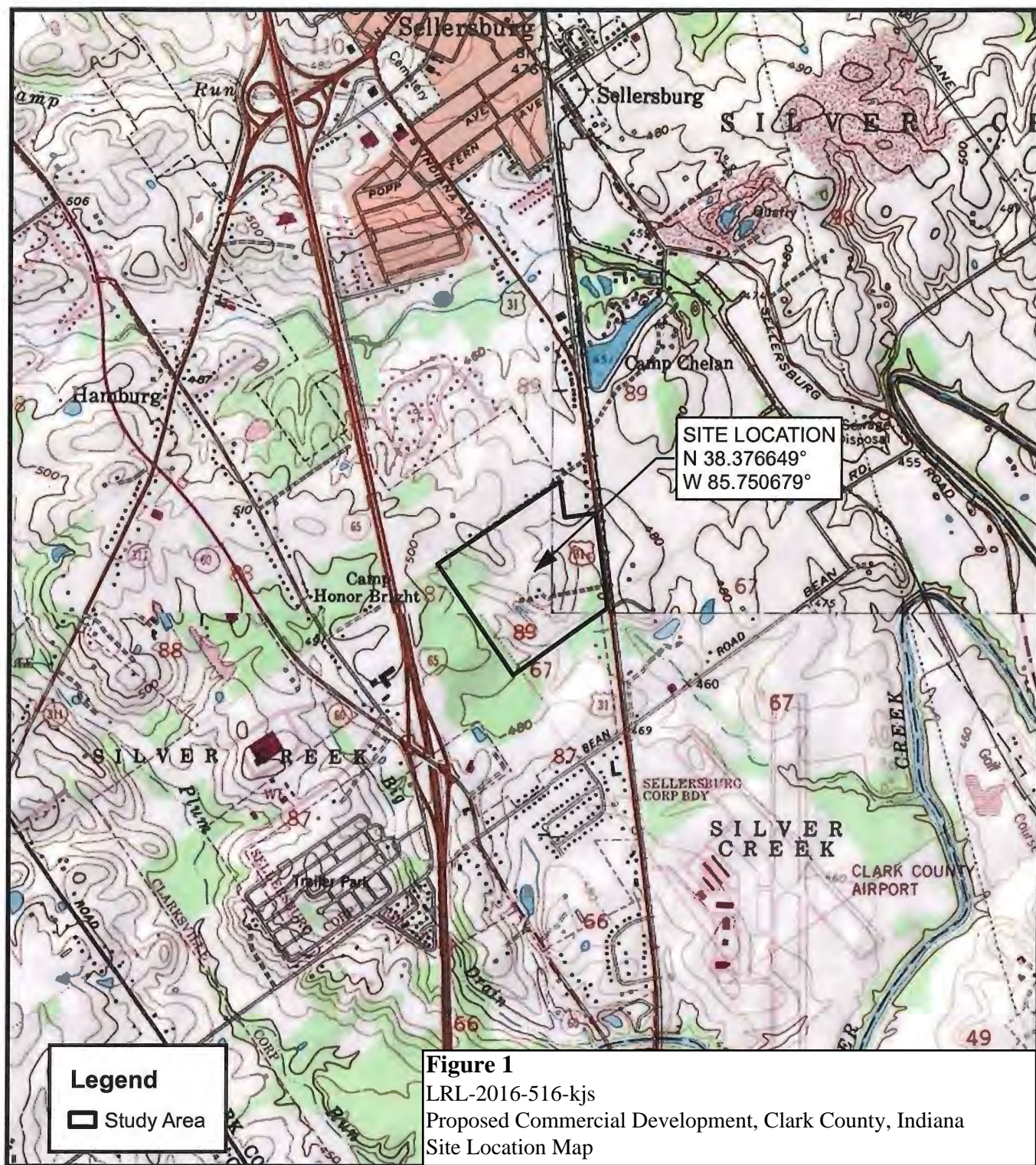
a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2016-516-kjs.

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Example: LRL-2016-516-kjs (subject)

- b) Provide your physical mailing address and telephone number.
- c) Send your email to: [lrl.regulatorypubliccomment@usace.army.mil](mailto:lrl.regulatorypubliccomment@usace.army.mil).
- d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.

Source: USGS 7.5-minute Topographic Map - Speed, Charlestown, New Albany and Jeffersonville, Indiana Quadrangles.



**Figure 2**  
 LRL-2016-516-kjs  
 Proposed Commercial Development, Clark County, Indiana  
 Site Development Plan

Feature	Length (ft)	Area (Ac)	Impact Length (ft)	Impact Area (ac)	Quality/Type
Ephemeral 1	320	0.01	135	0.005	Poor
Ephemeral 2	320	0.01	0	0	Poor
Ephemeral 3	765	0.05	570	0.039	Poor
Ephemeral 4	170	0.02	170	0.019	Poor
Ephemeral 5	945	0.04	945	0.043	Poor
<b>Total Ephemeral Impacts</b>	<b>2,520</b>	<b>0.13</b>	<b>1,820</b>	<b>0.11</b>	
Wetland 1	-	0.21	-	0.04	Emergent
		1.75	-	0.50	Scrub/Shrub
Wetland 2	-	0.732	-	0.118	Forested
		0.05	-	0.05	Emergent
Wetland 3	-	0.01	-	0.01	Scrub/Shrub
		0.17	-	0.17	Scrub/Shrub
Wetland 4	-	0.26	-	0.26	Emergent
		0.21	-	0.21	Emergent
Wetland 5	-	0.05	-	0.05	Scrub/Shrub
		0.05	-	0.05	Emergent
Wetland 6	-	0.14	-	0.14	Scrub/Shrub
		0.03	-	0.03	Scrub/Shrub
Wetland 7	-	0.52	-	0.16	Emergent
		0.27	-	0.08	Scrub/Shrub
Wetland 8	-	0.43	-	0.43	Emergent
		0.55	-	0.55	Scrub/Shrub
Wetland 9	-	0.07	-	0.07	Emergent
		0.08	-	0.08	Scrub/Shrub
<b>Total Wetland Impacts</b>	-	<b>5.44</b>	-	<b>2.98</b>	



- LEGEND
- STUDY AREA
  - EPHEMERAL STREAM NOT IMPACTED (700 ft)
  - EPHEMERAL STREAM IMPACT (1,820 ft)
  - EMERGENT WETLAND NOT IMPACTED (0.53 ac)
  - SCRUB/SHRUB WETLAND NOT IMPACTED (1.32 ac)
  - FORESTED WETLAND NOT IMPACTED (0.61 ac)
  - EMERGENT WETLAND IMPACT (1.27 ac)
  - SCRUB/SHRUB WETLAND IMPACT (1.59 ac)
  - FORESTED WETLAND IMPACT (0.12 ac)

NOTE: JURISDICTIONAL WATER/WETLAND BOUNDARIES WERE DELINEATED AND SURVEYED USING GLOBAL POSITIONING SYSTEM EQUIPMENT BY REDWING WETLAND SCIENTISTS ON NOVEMBER 12, 13, 15, 16, 2015. THESE BOUNDARIES WERE VERIFIED BY THE U.S. ARMY CORPS OF ENGINEERS ON JUNE 16, 2016. USE OF THIS MAP IS FOR PRELIMINARY PLANNING PURPOSES ONLY.



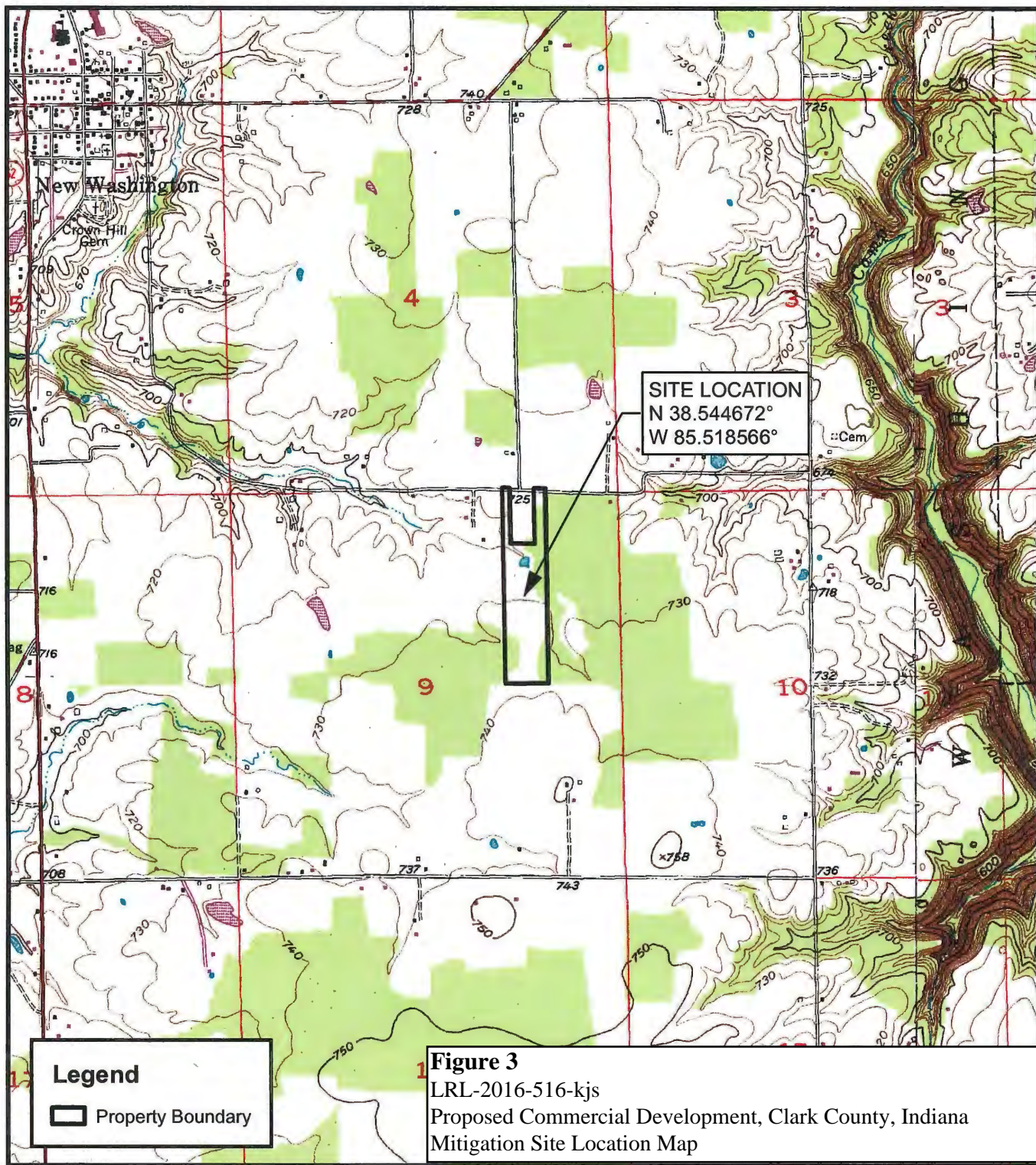
7615 HIGHWAY 31E  
 DEVELOPMENT PROJECT  
 CLARK COUNTY, INDIANA

REVISED DATE: 08-25-16    DRAWN BY: BJD/EDB



SELECTED ALTERNATIVE  
 IMPACT MAP

Source: USGS 7.5-minute Topographic Map - Bethlehem and New Washington, Indiana Quadrangles.



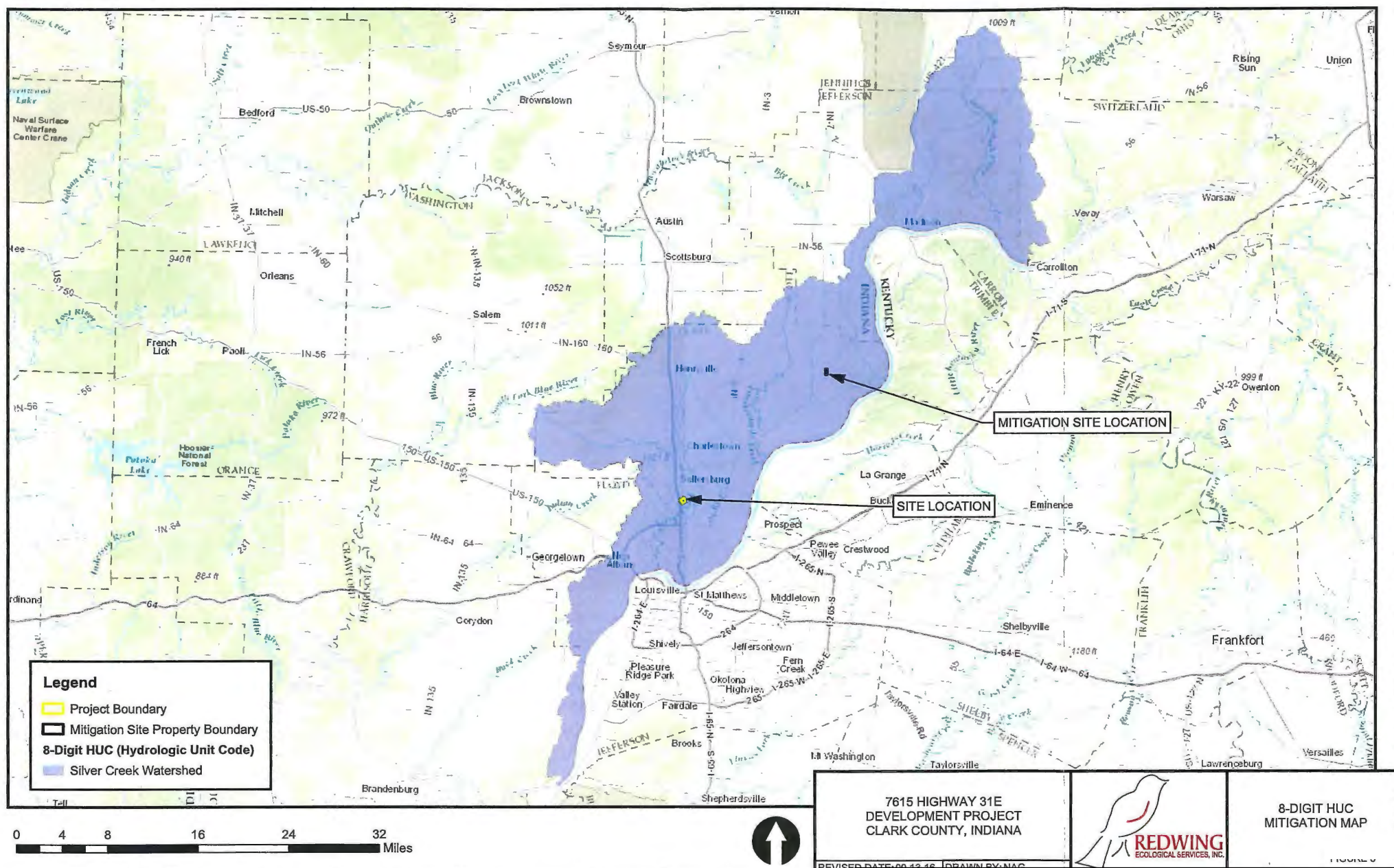
7615 HIGHWAY 31E  
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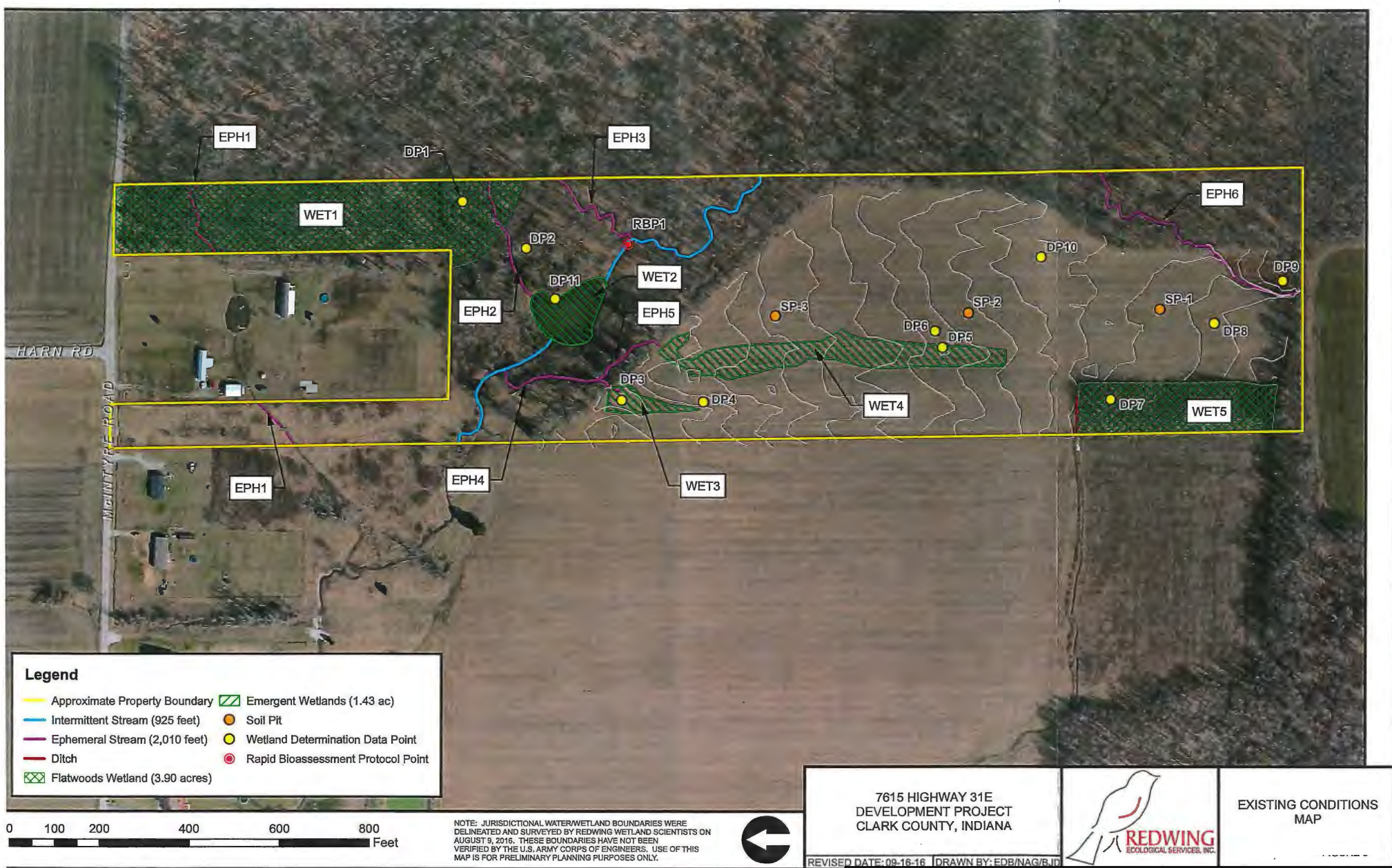
MCINTYRE ROAD  
 MITIGATION SITE  
 LOCATION MAP

REVISED DATE: 08-25-16

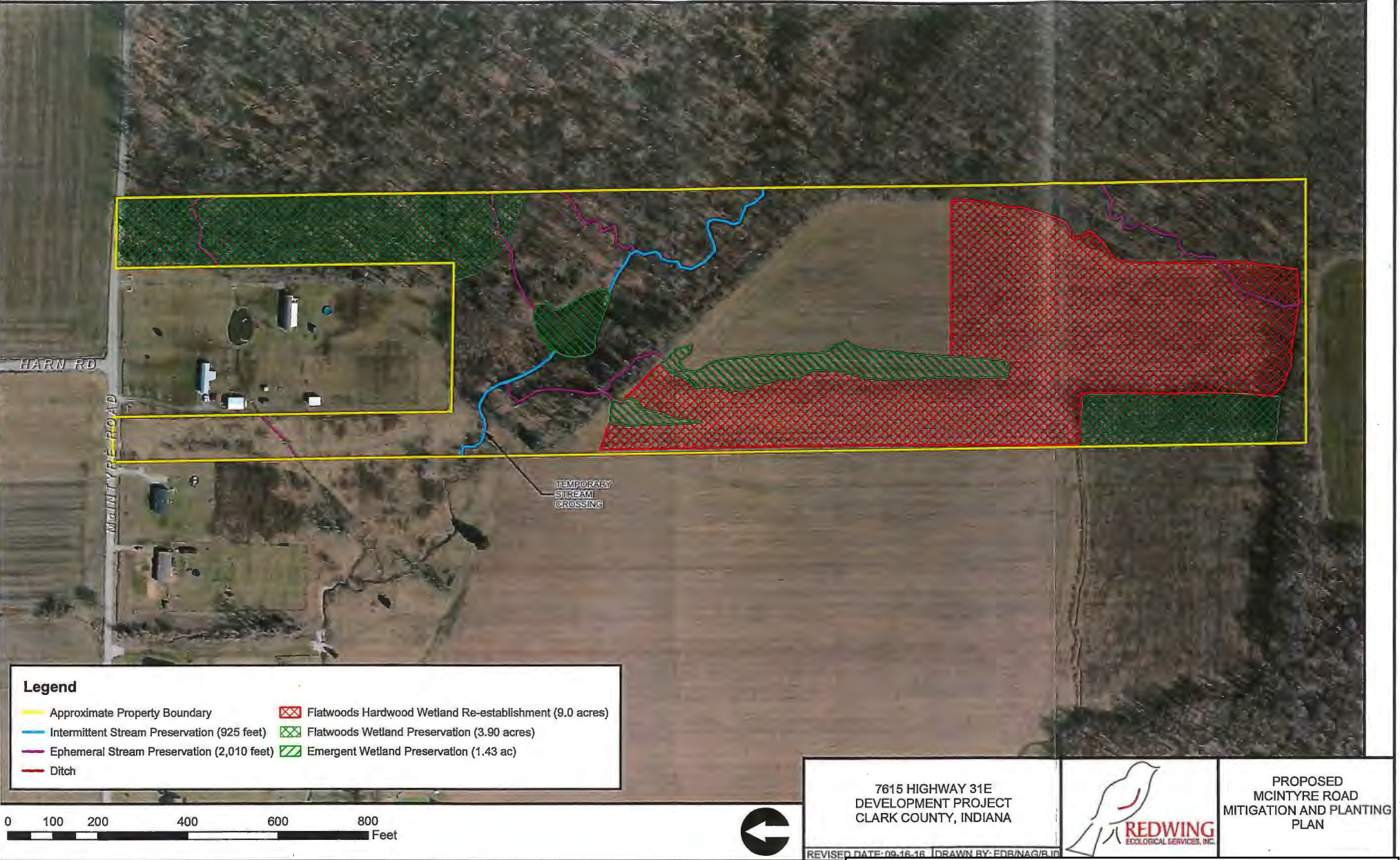
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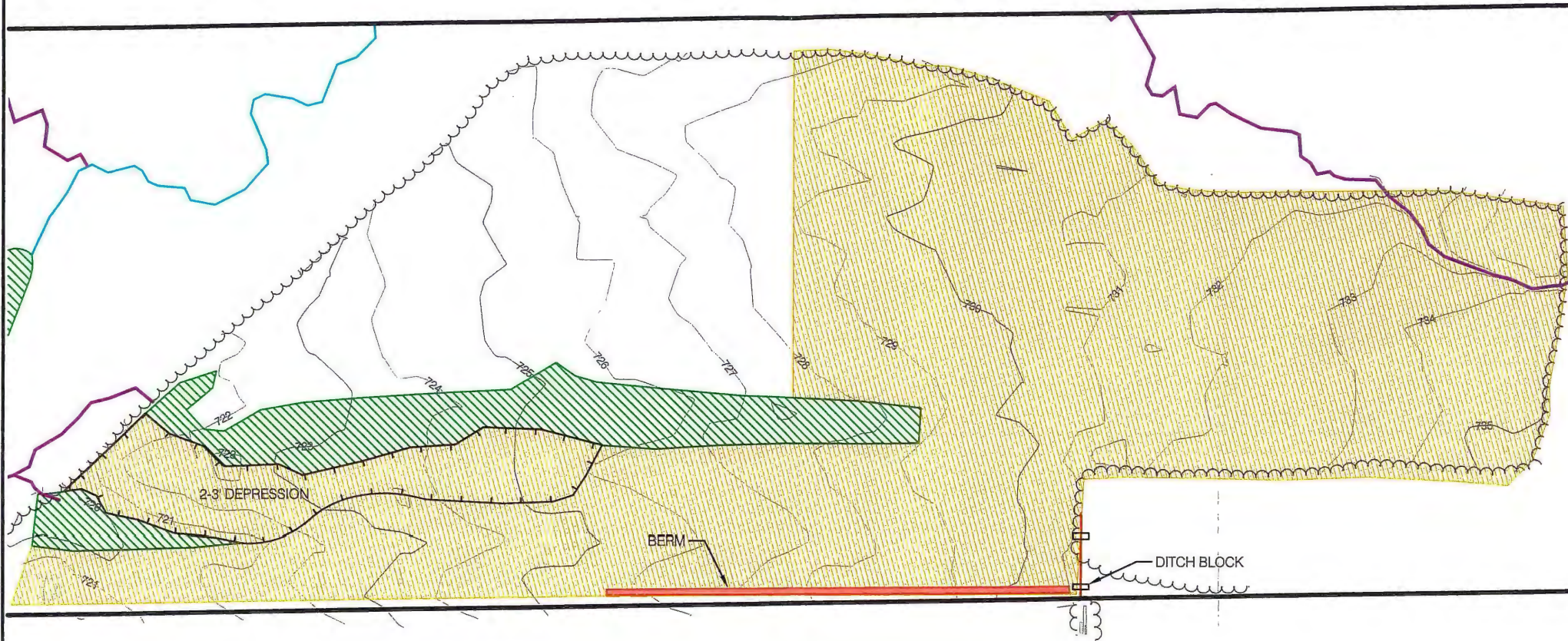
**Figure 4**  
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Proposed Commercial Development, Clark County, Indiana  
Impact and Mitigation Site Location Map



**Figure 5**  
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Proposed Commercial Development, Clark County, Indiana  
Mitigation Site Existing Conditions



**Figure 6**  
LRL-2016-516-kjs  
Proposed Commercial Development, Clark County, Indiana  
Mitigation Site Development Plan



# LEGEND

- STUDY AREA
- INTERMITTENT STREAM PRESERVATION (925 feet)
- EPHEMERAL STREAM PRESERVATION (2,010 feet)
- DITCH
- DITCH BLOCK
- FLATWOODS WETLAND RE-ESTABLISHMENT (9.0 ACRES)
- EMERGENT WETLAND PRESERVATION



SOURCE: BASE MAP PROVIDED BY JACOBI, TOOMBS AND LANZ, INC

7615 HIGHWAY 31E  
DEVELOPMENT PROJECT  
CLARK COUNTY, INDIANA



MCINTYRE ROAD  
MITIGATION  
GRADING PLAN

**Figure 7**

LRL-2016-516-kjs

Proposed Commercial Development, Clark County, Indiana  
Mitigation Site Grading Plan